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OFFICE OF PETITIONS

In re Application of :
Hyo-Hak Nam, et al. :
Application No. 10/723,178 : **DECISION DISMISSING PETITION**
Filed: November 26, 2003 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 8071-50 (OPP 030570 :
US)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 10, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not accompanied with the proper submission to the RCE. While waiting for the IDS to be faxed the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the \$810 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded in due course.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

Terri Williams
Petitions Examiner
Office of Petitions